



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

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CC:INTL:Br1:LRRubenstein
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John C. Casstevens
Internal Revenue Service
Taxpayer Advocate Service
Stop C:TAS:FTL:JFL
400 West Bay St., Suite 35045
Jacksonville, FL 32202

Dear Mr. Casstevens:

I am responding to your fax dated June 27, 2000, to Mr. Michael Cornett, Special Counsel, Office of the Associate Chief Counsel (International), regarding the U.S. taxation of [REDACTED] Canadian investments. You requested our assistance in responding to an inquiry from The Honorable Lois Capps, U.S. House of Representatives, on behalf of the [REDACTED].

[REDACTED] are U.S. residents who recently returned to the United States after living in Canada for 12 years. While residing in Canada, they established Canadian registered retirement savings plans ("RRSPs") for their retirement and registered education savings plans ("RESPs") for their children's educations. Canada provides tax deferred treatment to both RRSPs and RESPs. [REDACTED] requested advice regarding the U.S. treatment of their RRSPs and RESPs.

The information provided did not specify whether the [REDACTED] are U.S. citizens or long-term permanent residents. U.S. citizens are required to pay U.S. tax on income accrued in foreign investments, even while they are residing outside the United States.

U.S. citizens and residents are generally taxed on their worldwide income

Under the Internal Revenue Code ("the Code"), the United States generally taxes U.S. citizens and residents on their worldwide income, regardless of where they reside or the source of their income. In other words, taxable income of U.S. citizens and residents includes their income from all sources, foreign and domestic. There is no exception for income accruing in foreign retirement plans or education savings plans. However, the

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Code rules may be changed by an income tax treaty to which the United States is a party.

Tax deferral in the United States is available for RRSPs

Under paragraph 7 of Article XVIII of the income tax treaty between the United States and Canada ("Treaty"), U.S. citizens and residents may elect to defer U.S. taxation on income accruing in an RRSP until the income is distributed. The rules for making the election are found in Revenue Procedure 89-45, 1989-2 C.B. 596. Although Revenue Procedure 89-45 was issued under former Article XXIX(5) of the Treaty, its principles remain applicable.

RESPs are taxable investments in the United States

The Treaty does not provide for deferral of taxation on income accumulating in educational funds. The Treaty provision that provides benefits for RRSPs is limited to arrangements that provide pension, retirement, or employee benefits. Because RESPs do not provide such benefits, the Treaty does not provide protection from taxation in the United States.

I hope this information is of assistance to you. If you have any questions, please contact me or Leslie R. Rubenstein at (202) 622-3880.

Sincerely,

M. Grace Fleeman
Assistant to Branch Chief, Branch 1
Office of the Associate Chief Counsel (International)